STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE

INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: **All County Auditors, County and Township Assessors, County Recorders, and County Fiscal Bodies**

FROM: **Micah G. Vincent, Commissioner**

RE: **Legislative Changes Affecting Property Tax Deductions**

DATE: **May 19, 2014**

This memorandum addresses a variety of 2014 legislative changes concerning property tax deductions and the corresponding authority and duties of county auditors, county and township assessors, county recorders, and county fiscal bodies. Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

I. Heritage Barns

On March 25, 2014, Governor Pence signed into law House Enrolled Act 1046 ("HEA 1046"), Section 4 adds IC 6-1.1-12-26.2, which is a property tax deduction for certain barns designated as heritage barns. Specifically, an eligible applicant is entitled to a deduction against the assessed value of the structure and foundation of a heritage barn beginning with assessments after 2014 (although the provision takes effect July 1, 2014, it first applies to the 2015 pay 2016 cycle). The deduction is equal to 100% of the assessed value of the structure and foundation of the heritage barn.

"Eligible applicant" means (A) an owner of a heritage barn; or (B) a person that is purchasing property that includes a heritage barn, under a contract that:

(i) gives the person a right to obtain title to the property upon fulfilling the terms of the contract;
(ii) does not permit the owner to terminate the contract as long as the person buying the property complies with the terms of the contract;
(iii) specifies that during the term of the contract the person must pay the property taxes on the property; and
(iv) has been recorded with the county recorder.

"Heritage barn" means a barn that on the assessment date:

(A) was constructed before 1950;
(B) retains sufficient integrity of design, materials, and construction to clearly identify the building as a barn;

(C) is not being used for agricultural purposes in the operation of an agricultural enterprise; and
(D) is not being used for a business purpose.

"Barn" means a building (other than a dwelling) that was designed to be used for:
(A) housing animals;
(B) storing or processing crops;
(C) storing and maintaining agricultural equipment; or
(D) serving an essential or useful purpose related to agricultural activities conducted on the adjacent land.

An eligible applicant that desires to obtain the deduction must file a certified deduction application with the auditor of the county in which the heritage barn is located. The application may be filed in person or by mail. The application must contain the information and be in the form prescribed by the Department of Local Government Finance ("Department") (the Department will prepare and distribute this form in the near future). If mailed, the mailing must be postmarked on or before the last day for filing. The application must be filed during the year preceding the year in which the deduction will first be applied.

Upon verification of the application by the appropriate county or township assessor, if any, the auditor of the county must allow the deduction. The auditor must, in a particular year, apply the deduction to the heritage barn of the owner that received the deduction in the preceding year unless the auditor of the county determines that the property is no longer eligible for the deduction. A person that receives this deduction and remains eligible for the deduction in the following year is not required to file an application in the following year.

A person that receives this deduction in a particular year and becomes ineligible for the deduction in the following year must notify the auditor of the county in which the property is located of the ineligibility in the year in which the person becomes ineligible. This deduction terminates following a change in ownership of the heritage barn. However, this deduction does not terminate following the removal of less than all the joint owners of property or purchasers of property under the recorded contract mentioned above.

A county fiscal body may adopt an ordinance to require a person receiving this deduction to pay an annual public safety fee for each heritage barn for which the person receives this deduction. The fee may not exceed $50. The county auditor must distribute these public safety fees equitably among the police and fire departments in whose territories each heritage barn is located. If a county fiscal body adopts this ordinance, it must furnish a copy to the Department in the manner the Department prescribes.

II. Homestead Deduction

A. On March 26, 2014, Governor Pence signed into law Senate Enrolled Act 367 ("SEA 367"), Section 2 amends the homestead deduction (IC 6-1.1-12-37) as it applies to certain active military personnel. Specifically, for assessment dates after 2013, the term "homestead" includes property that is owned by an individual who:

(1) is serving on active duty in any branch of the armed forces of the United States;
(2) was ordered to transfer to a location outside Indiana; and
(3) was otherwise eligible for the homestead deduction for the property for the assessment date immediately preceding the transfer date specified in the order.

The provision takes effect July 1, 2014, meaning that it could apply to the 2014 pay 2015 cycle, but only for those personnel who qualify on or after July 1, 2014.

For property to qualify for the deduction, the applicant must submit to the county auditor a copy of the individual's transfer orders or other information sufficient to show that the individual was ordered to transfer to a location outside Indiana.

The property continues to qualify for the deduction until the individual ceases to be on active duty, the property is sold, or the individual's ownership interest is otherwise terminated, whichever occurs first. The property remains a homestead regardless of whether the property continues to be the individual's principal place of residence after the individual transfers to a location outside Indiana. However, the property ceases to qualify as a homestead if the property is leased while the individual is away from Indiana.

Property that qualifies as a homestead under this provision must also be construed as a homestead for purposes of the supplemental homestead deduction.

B. Also with regard to the homestead deduction, on March 25, 2014, Governor Pence signed into law Senate Enrolled Act 249 ("SEA 249"). Section 3 amends IC 6-1.1-36-17 which governs the handling of ineligible homesteads. This amendment is effective July 1, 2014.

Specifically, each county auditor that makes a determination that property was not eligible for a homestead deduction it received must notify the county treasurer of the determination and do one or more of the following:
(1) Make a notation on the tax duplicate that the property is ineligible for the standard deduction and indicate the date the notation is made.
(2) Record, without charge, a notice of an ineligible homestead lien in the county recorder's office.

The county auditor must issue a notice of taxes, interest, and penalties due to the owner that improperly received the standard deduction and include a statement that the payment is to be made payable to the county auditor. The notice must require full payment of the amount owed within 30 days. The additional taxes and civil penalties that result from the removal of the deduction, if any, are imposed for property taxes first due and payable for an assessment date occurring before the earlier of the date of the notation made under (A) above or the date a notice of an ineligible homestead lien is recorded in the office of the county recorder under (B) above.

With respect to property subject to a determination of ineligibility that is owned by a bona fide purchaser without knowledge of the determination, no lien attaches for any additional taxes and civil penalties that result from the removal of the deduction.

Any part of the amount due that is not collected by the due date is subject to collection under one or more of the following:

(1) After being placed on the tax duplicate, collected in the same manner as other property taxes.

(2) Through the recorded lien as per 2(B) above.

The adjustment in tax due and any interest and penalties on that amount after the termination of the deduction, must be deposited in the non-reverting fund as otherwise specified by IC 6-1.1-36-17 only in the first year in which that amount is collected.

Upon the collection of the amount due or the release of a lien recorded under 2(B) above, the county auditor must submit the appropriate documentation to the county recorder, who must amend the recorded information without charge to indicate that the lien has been released or the amount has been paid in full.

III. Deduction Filing Deadline

On March 26, 2014, Governor Pence signed into law House Enrolled Act 1266 ("HEA 1266"), Sections 7 through 15 and 17 through 18 which amends the filing deadline for various deductions to conform with current practice. Specifically, an application for one of the following deductions **for real property** must be filled out and signed on or before December 31 of the year preceding the year in which the deduction would first appear on the applicant's bill and postmarked or filed with the appropriate county auditor on or before the following January 5:

- over 65 (see IC 6-1.1-12-10.1)
- blind/disabled person (see IC 6-1.1-12-12)
- disabled veteran (see IC 6-1.1-12-15)
- World War I veteran (see IC 6-1.1-12-17.5)
- surviving spouse of World War I veteran (see IC 6-1.1-12-17)
- solar energy heating/cooling system/solar power device (see IC 6-1.1-12-27.1)
- wind power device (see IC 6-1.1-12-30)
- coal/hydroelectric/geothermal device (see IC 6-1.1-12-35.5)
- fertilizer storage (see IC 6-1.1-12-38)
- model residence (see IC 6-1.1-12.6-3)
- residence-in-inventory deduction (see IC 6-1.1-12.8-4)

These amendments first apply to the March 1, 2014 assessment date. Please note that the mortgage deduction and homestead deduction are already governed by this filing deadline.

IV. Deduction Carry-Over

Section 16 of HEA 1266 amends IC 6-1.1-12-45 (effective upon passage), which governs the carry-over of deductions between property owners, so that the statute conforms to existing practice by county auditors.

Essentially, if a deduction is validly in place on the assessment date, it will remain in place for that entire tax cycle even if the property owner becomes ineligible for the deduction during that tax cycle but following the assessment date. In other words, if a deduction is validly in place on March 1 but the property owner sells the property to another party later in the year, the deduction will remain in place for that tax cycle regardless of the new owner's eligibility for it. This is also true if the property owner dies after the assessment date. The new owner will have to apply for deductions in his or her own name for the following assessment date.

Contact Information

Questions may be directed to Staff Attorney Mike Duffy at (317) 233-9219 or mduffy@dlgf.in.gov.